



State of Utah

Department of  
Environmental Quality

Richard W. Sprott  
*Executive Director*

DIVISION OF SOLID AND  
HAZARDOUS WASTE  
Dennis R. Downs  
*Director*

JON M. HUNTSMAN, JR.  
*Governor*

GARY HERBERT  
*Lieutenant Governor*

May 14, 2008

Tye K. Rogers, Vice President  
Compliance and Permitting  
EnergySolutions, LLC  
423 West 300 South, Suite 200  
Salt Lake City, Utah 84101

**Subject: Proposed Stipulation and Consent Order**

Dear Mr. Rogers:

Enclosed please find a proposed STIPULATION AND CONSENT ORDER (SCO) and penalty calculation worksheets for resolution of NOTICE OF VIOLATION No. 0801002 (NOV) issued to EnergySolutions on January 24, 2008. A potential penalty liability of \$2,314.00 has been calculated for the violations identified in the NOV and the SCO. Please contact this office by May 30, 2008 to either schedule a meeting to discuss the proposed SCO or to let us know that the terms are acceptable to you.

If you have any questions, please contact Mark Christensen at (801) 538-6170.

Sincerely,

**ORIGINAL DOCUMENT SIGNED BY DENNIS R. DOWNS ON 5/14/08**

Dennis R. Downs, Executive Secretary  
Utah Solid and Hazardous Waste Control Board

DRD/MEC/tjm

Enclosure

TN200800146

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BEFORE THE UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD

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In the Matter of:	:	<u>PROPOSED STIPULATION</u>
	:	<u>AND CONSENT ORDER</u>
EnergySolutions, LLC	:	<u>No. 0802005</u>
UTD982598898	:	
	:	

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This proposed **STIPULATION AND CONSENT ORDER (CONSENT ORDER)** is issued by the UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD (the Board) pursuant to 19-6-101 of the Utah Solid and Hazardous Waste Act (the Act) and the Utah Code Annotated (1953, as amended).

**JURISDICTION**

The Board has jurisdiction over the subject matter of this CONSENT ORDER pursuant to 19-6-112 Utah Code Annotated (1953, as amended), and jurisdiction over EnergySolutions, LLC. EnergySolutions and the Board are the parties to this CONSENT ORDER.

**FINDINGS**

1. EnergySolutions, LLC is a Utah corporation licensed to conduct business in the State of Utah.
2. EnergySolutions is a "person" as defined in UCA 19-1-103(4) and is subject to all applicable provisions of the Utah Solid and Hazardous Waste Act, the Utah Administrative Code (Rules) and its Permit.
3. EnergySolutions operates a commercial mixed waste treatment, storage and disposal facility in Tooele County, Utah. Hazardous wastes that EnergySolutions is authorized to treat, store and dispose are identified in the facility's Part B Permit issued on November 30, 1990 (the Permit), on file with the Utah Department of Environmental Quality, Division of Solid and Hazardous Waste (the Division). The permit was reissued effective April 4, 2003.
4. EnergySolutions generates listed and characteristic hazardous waste as defined by R315-2 of the Rules.

5. Authorized representatives of the Utah Solid and Hazardous Waste Control Board (the inspectors) conducted compliance evaluation inspections at *EnergySolutions*' facility between October 1, 2006 and September 30, 2007.
6. The Executive Secretary of the Board issued NOTICE OF VIOLATION No. 0801002 (NOV) to *EnergySolutions* on January 24, 2008 alleging violations by *EnergySolutions* of the Rules and the Permit based on findings documented during the above referenced inspections.
7. *EnergySolutions* filed responses to the NOV on February 25, 2008, and reserved its right for a hearing before the Board.

### **STIPULATION AND CONSENT ORDER**

8. The parties now wish to fully resolve the NOV identified above without further administrative or judicial proceedings. By entering into this CONSENT ORDER, *EnergySolutions* withdraws its request for a hearing.
9. In full settlement of the violations alleged in NOV No. 0801002 identified above, *EnergySolutions* shall pay the sum of \$ \_\_\_\_\_ dollars to the Utah Department of Environmental Quality, c/o Dennis R. Downs, Executive Secretary, Utah Solid and Hazardous Waste Control Board, Utah Department of Environmental Quality, Division of Solid and Hazardous Waste, State of Utah, Salt Lake City, Utah 84114-4880. This amount has been determined in accordance with the Board's Civil Penalty Policy (R315-102 of the Rules), which considers such factors as the gravity of the violation(s), the extent of deviation from the rules, the potential for harm to human health and the environment, good faith efforts to comply, and other factors. Full payment shall be made within 30 days of the effective date of this CONSENT ORDER.

### **EFFECT OF CONSENT ORDER**

10. For the purpose of this CONSENT ORDER, the parties agree and stipulate to the above stated facts. The stipulations contained herein are for the purposes of settlement and shall not be considered admissions by any party and shall not be used by any person related or unrelated to this CONSENT ORDER for purposes other than determining the basis of this CONSENT ORDER. Nothing contained herein shall be deemed to constitute a waiver by the State of its right to initiate enforcement action, including civil penalties, against *EnergySolutions* in the event of future non-compliance with this CONSENT ORDER, with the Act, with the Rules, or with the Permit, nor shall the State be precluded in any way from taking appropriate action should such a situation arise at *EnergySolutions*' facility. However, entry into this CONSENT ORDER shall relieve *EnergySolutions* of all liability for violations alleged in NOV No. 0801002.

**EFFECTIVE DATE**

11. This CONSENT ORDER shall become effective upon execution by *EnergySolutions* and the Executive Secretary of the Board.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2008

*EnergySolutions*, LLC

Utah Solid and Hazardous Waste Control Board

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Tye Rogers, Vice President

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Dennis R. Downs, Executive Secretary

**NARRATIVE EXPLANATION TO SUPPORT  
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 0801002

violation number 1

violation description Free Liquids in Container

**1. Gravity Based Penalty**

- a) Potential for Harm - **MINOR** – Although receiving a container that previously held PCBs, has the potential to leach into the landfill cell, the container contained less than one liter of liquid which was collected. The container was subsequently treated by MACRO and disposed in an engineered landfill cell.
- b) Extent of Deviation - **MODERATE** – The container should have been rejected to the generator, because it contained free liquids. Not only was the container not returned to the generator, the Permittee stored, treated and disposed of the container. Each of these steps should have alerted the Permittee of proper management standards. Since the Permittee failed on three separate steps to properly manage this container it was determined to be a moderate extent of deviation. Used mid range of the matrix (\$520).
- c) Multiple/Multi-day – Not applicable

**2. Adjustment Factors**

- a) Good faith – *EnergySolutions* self-identified and reported this violation. (20% reduction \$520 - \$104 = \$416).
- b) Willfulness/Negligence – Not applicable
- c) History of Compliance or Noncompliance – Not applicable
- d) Ability to pay – Not applicable
- e) Other Unique Factors – Not applicable

**3. Economic Benefit (not applicable)**

**4. Recalculation of Penalty based on New Information (not applicable)**

**TOTAL: \$416.00**

**NARRATIVE EXPLANATION TO SUPPORT  
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 0801002

violation numbers 2 & 3

violation description Treated and Disposed Waste

**1. Gravity Based Penalty**

- a) Potential for Harm - **MODERATE** – Failure to notify the Executive Secretary of a treatment formula and failure to receive approval prior to using a treatment formula that has a weight ratio exceeding two may diminish the role of the regulations by allowing waste to be disposed that is characteristically hazardous.
- b) Extent of Deviation - **MINOR** – Most of the time, *EnergySolutions* submits an established treatment formula and schedule for treatment. Used mid range of the matrix (\$2,080).
- c) Multiple/Multi-day – Not applicable

**2. Adjustment Factors**

- a) Good faith – *EnergySolutions* self-identified and reported this violation. (20% reduction \$2,080 - \$416 = \$1,664).
- b) Willfulness/Negligence – Not applicable
- c) History of Compliance or Noncompliance – Not applicable
- d) Ability to pay – Not applicable
- e) Other Unique Factors – Not applicable

**3. Economic Benefit** (not applicable)

**4. Recalculation of Penalty based on New Information** (not applicable)

**TOTAL: \$1,664.00**

**NARRATIVE EXPLANATION TO SUPPORT  
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 0801002

violation number 4

violation description Contingency Plan

**1. Gravity Based Penalty**

- a) Potential for Harm - **MINOR** - Although the initial Contingency Plan was submitted as required, the recent revision was not provided to the response agencies.
- b) Extent of Deviation - **MINOR** – This plan was modified three times in 2007 and this was the only time the response agencies were not notified. Because this issue relates to emergency services to the facility, the high end of the range was used (\$260).
- c) Multiple/Multi-day – Not applicable

**2. Adjustment Factors**

- a) Good faith – EnergySolutions self-identified and reported this violation. (20% reduction \$260 - \$26 = \$234).
- b) Willfulness/Negligence – Not applicable
- c) History of Compliance or Noncompliance – Not applicable
- d) Ability to pay – Not applicable
- e) Other Unique Factors – Not applicable

**3. Economic Benefit (not applicable)**

**4. Recalculation of Penalty based on New Information (not applicable)**

**TOTAL: \$234.00**